UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
Region 21

AT&T TELEHOLDINGS, INC.[1]

Employer

and

ANTHONY ROSS, JR., an Individual — Case 21-UD-413

Petitioner

and

COMMUNICATIONS WORKERS
OF AMERICA[2]

Union

DECISION AND DIRECTION OF ELECTION

On May 22, 2008, the Petitioner filed a petition seeking a deauthorization election in a unit consisting of all full-time and regular part-time associate field service representatives, field service representatives, and senior field service representatives employed by the Employer at 1251 North Red Gum Street, Anaheim, California.[3] This unit will be referred to as the "Global Services unit" in this decision.

[1] The name of the Employer appears as corrected at the hearing.
[2] The name of the Union appears as corrected at the hearing.
[3] During the hearing, the petition was amended to include an Employer location in Las Vegas, Nevada, and the following Employer locations in California: Concord, San Diego, and Santa Ana. The record shows that employees in the petitioned-for unit are employed by SBC Global Services, Inc. The parties stipulated that SBC Global Services, Inc. is a subsidiary of the Employer.

On June 30, 2008, a hearing in this matter was held before a hearing officer of the National Labor Relations Board ("the Board"). Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

I. Issues

The Union and the Employer contend that the petition should be dismissed because it seeks an election in a unit that is not coextensive with the existing bargaining unit. They claim that the Global Services unit has been merged into a larger previously existing unit of about 24,000 to 26,000 employees who are covered by the parties' West Core Regional Agreement ("Core Agreement"), and, as a result, a UD petition can only be filed for an election among the larger merged unit of employees.[4]

The Petitioner maintains that an election among only the employees in the Global Services unit is appropriate, as it is a separate unit.

II. Conclusion

Based on the entire record and current Board law, I find that the Global Services unit and the Core Agreement unit are not merged. Accordingly, I shall direct a deauthorization election in a unit consisting of all full-time and regular part-time associate field service representatives, field service representatives, and senior field service representatives employed by SBC Global Services, Inc. in California and Nevada.[5]

[4] No party filed a written brief. However, the parties each stated their position on the record. The Union also argues that the existence of a two-member Board bars the processing of this petition because such Board lacks a quorum. Finally, the Union argues that the processing of this petition is unconstitutional because it impairs a contract between the Employer and the Union.

[5] As previously noted, SBC Global Services, Inc. is a subsidiary of the Employer and employs the employees in the petitioned-for unit.

III. Facts

A. The Core Agreement

The Employer and the Union entered into a collective-bargaining agreement with a term of April 4, 2004, to April 4, 2009 ("the Core Agreement").[6] The recognition clause and a recognition agreement in the Core Agreement state that the Employer recognizes the Union as the collective-bargaining representative of employees in over 40 different job classifications at various locations in California and Nevada. The list of job classifications in the Core Agreement does not include associate field service representatives, field service representatives, or senior field service representatives. The Core Agreement covers a unit of about 24,000 to 26,000 employees.

B. The Global Services agreements

SBC Global Services, Inc. ("Global Services") is a subsidiary of the Employer. Global Services and the Union entered into a collective-bargaining agreement with a term of March 23, 2004, to June 25, 2005, covering a unit of employees in California and Nevada with the following job titles: associate field service representative, field service representative, and senior field service representative. The record is unclear as to how or when the Union obtained recognition for this unit. Employees in this unit install telephone systems at business locations.

In 2006, Union Staff Representative Cherie Brokaw ("Brokaw") and the Employer's Executive Director of Labor Relations Douglas Flores ("Flores"), negotiated

[6] The name of the employer in the Core Agreement appears in its entirety as, "PACIFIC BELL/NEVADA BELL, SBC Telecom, Inc. in Las Vegas, Nevada, SBC Telecom, Inc. – Network Operations, SBC Advanced Solutions, Inc., SBC Services, Inc., Pacific Bell Information Services Maintenance Notification Group, and Pacific Bell Home Entertainment." During the hearing, the parties stipulated that some time after April 2006, SBC Teleholdings, Inc. changed its name to AT&T Teleholdings, Inc. The parties also stipulated that AT&T Teleholdings, Inc. is the employer in the Core Agreement.

a successor agreement for Global Services unit employees. This agreement is effective from April 17, 2006, to April 4, 2009.[7] The recognition clause in this agreement states that Global Services recognizes the Union as the exclusive collective-bargaining representative for employees in California and Nevada with the following job titles: associate field service representative, field service representative, and senior field service representative.[8]

C. The 2006 Global Services agreement is attached to the 2004 Core Agreement as Appendix D.

Brokaw and Flores testified that during bargaining for the successor Global Services agreement, the parties agreed to place the Global Services unit into the Core Agreement unit. After finalizing the successor Global Services agreement, the agreed-upon changes were listed on a four-page Final Bargaining Report, dated April 3, 2006. The Final Bargaining Report contains a paragraph stating: "The Company and the Union agree to place the SBC Global Services, Inc. (California/Nevada) collective bargaining agreement into the core labor agreement ("West Core Regional Agreement") as Appendix D."

Global Services and the Union also executed a letter of agreement, dated April 3, 2006, stating that the parties agree to place the 2006 Global Services agreement into the 2004 Core Agreement under the following terms and conditions:

- The West Core Regional Agreement will be amended to incorporate Appendix D (Attachment 1).[9] Any reference within Appendix D to terminology such as Contract, Bargaining Unit, Collective-Bargaining Agreement and The Agreement, refers only to the provisions within Appendix D.

[7] The expiration date for the Core Agreement is also April 4, 2009.
[8] The exact size of this unit is unclear. During the hearing, the parties estimated that the unit consists of less than 100 employees. The petition states that there are 47 employees in this unit.
[9] Appendix D refers to the 2006 Global Services collective-bargaining agreement.

- To the extent any of the provisions of Appendix D may be found to be in conflict with the provisions of the West Core Regional Agreement, Appendix D shall control.

- CWA agrees it will not seek to alter any existing bargaining units in any AT&T Company on the basis of any movement or transfer of employees between said companies as a result of this agreement. Further, CWA will not, on the basis of this agreement or change in operations or practices made by the Company or any AT&T Company or Companies as a result of this agreement, in any pleading, petition, complaint, or proceeding before the National Labor Relations Board, an arbitrator or panel of arbitrators, or any court, assert, claim, change or allege that the Company and any AT&T Company or Companies are a single or joint employer or enterprise, alter egos, accretions or successors of one another, or that any bargaining units of said entities represented by or sought to be represented by CWA are a single bargaining unit, or are or should be otherwise altered in their scope or composition. This commitment on the part of CWA will survive the expiration of the West Core Regional Agreement, unless and until such time as this commitment is terminated by the mutual written agreement of the parties. [10]

- The Company and CWA recognize that the parties to the West Core Regional Agreement, namely the Communications Workers of America (District 9) and AT&T Services, Inc. must agree to placement of Appendix D into the West Core Regional Agreement.[11]

- CWA, SBC Global Services, Inc. (California/Nevada) and AT&T Services, Inc. will execute the Memorandum of Agreement concerning movement of employees (Attachment 2).

- No other agreements between the Company or any AT&T Company or Companies and CWA will apply to the employees covered by Appendix D other than those contained in Appendix D and the Memorandum of Agreement concerning movement of employees.[12]

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[10] During redirect examination, Brokaw was asked why the language in this paragraph was placed in the letter of agreement. Her response was: "Yes, I think primarily, the issue was that the Union would not seek to try to accrete another unit in." See lines 21-25 on page 99 of the transcript.

[11] The Union and AT&T Services, Inc. executed a separate letter of agreement on April 27, 2006, containing identical terms and conditions as those set forth in the April 3, 2006 letter of agreement between the Union and Global Services.

[12] The Memorandum of Agreement sets forth rules with respect to the movement of employees into job titles covered by the Core Agreement and job titles covered by Appendix D. For instance, it states that an employee who is hired into a position in Appendix D and who subsequently transfers to a position covered by the Core Agreement shall continue to receive the same benefits as those that he/she would have received if he/she remained in his/her former Appendix D position. The Memorandum of Agreement is signed by all three parties—the Union, the Employer, and Global Services.

- This letter agreement is contingent upon ratification by the SBC Global Services, Inc. (California/Nevada) bargaining unit.

Once the successor Global Services agreement was finalized, Union representatives conducted a meeting with Global Services unit employees at an Employer facility in Anaheim, California. Employees were told that they would be voting to be in the "Core Contract." Global Services unit employees then voted to ratify the 2006 Global Services agreement, including the Final Bargaining Report. The record is unclear as to whether Global Services employees were explicitly told that the parties intended to merge their unit with the larger unit in the Core Agreement.

The 2006 Global Services agreement was subsequently attached to the 2004 Core Agreement as Appendix D. The Core Agreement and the 2006 Global Services agreement each contain a union-security provision.

During the hearing, the parties stipulated that different conditions of employment apply to Global Services employees covered by Appendix D of the Core Agreement. Brokaw testified that the 2006 Global Services agreement (Appendix D) does not coincide with the Core Agreement. The agreements have distinct grievance/arbitration procedures, time-off benefits, compensation benefits, and other terms and conditions of employment. For instance, employees covered by the Core Agreement, but not employees covered by Appendix D, have been entitled to a yearly lump-sum payment of up to $375.00 and a Cost-of-Living-Allowance (COLA) as part of a wage-increase agreement between the Employer and the Union. Likewise, meal allowances under Section 5.05 of the Core Agreement apply to employees covered by that contract, but not to those covered by Appendix D.

D. History of merging other units

Brokaw testified that, in the past, the Employer and the Union have agreed to merge other groups of employees into the Core Agreement unit. She mentioned three groups of employees who were previously merged into the Core Agreement. First, employees in "operator services," who were previously represented by another union, were merged into the Core Agreement unit in 1974. Brokaw testified that this group retained some of its terms and conditions of employment when it first became part of the Core Agreement unit, and that such conditions were gradually eliminated through collective bargaining. Brokaw also testified that accounting employees were included in the Core Agreement after they voted in favor of the Union in a Board election. Finally, Brokaw mentioned that commercial-services representatives were merged into the Core Agreement unit after either an election or an accretion. According to Brokaw, those employees came into the larger unit with separate terms and conditions, which were subsequently bargained away.

With respect to the Global Services unit, Brokaw testified, "Well, the idea was, our conversation was to get them in there, give them a common expiration date, make them part of the contract -- the same as all of these other groups. In time, was our feeling that they would become more part of the Core Agreement, just as the other units have."[13] During cross-examination, when asked why employees under the Core Agreement received a meal allowance while employees covered by Appendix D did not, Brokaw answered, "They are not -- they are not part of this. They have got their own provision, in Appendix D ….This unit is brand new into this Core Agreement, and because of that it

[13] See lines 8-12 on page 72 of the transcript.

takes time and several rounds of bargaining to move things in and start integrating them into other core language."[14]

IV. Analysis

A. Board Standards

Section 9(e)(1) of the National Labor Relations Act (the "Act") provides that a petition for an election may be filed with the Board seeking rescission of an agreement made between an employer and a labor organization pursuant to Section 8(a)(3). These agreements, which require membership in a labor organization as a condition of employment, are commonly known as union-security agreements. A petition to rescind the authority for such an agreement is known as a deauthorization or UD petition. As with other petitions filed with the Board, a UD petition must meet requirements regarding showing of interest, timing, and filing procedures. Rules and Regulations of the National Labor Relations Board, § 102.83, § 102.84.

It is settled law that a proper UD petition must seek an election in a unit that is coextensive with the contractually defined unit. Illinois School Bus Co., 231 NLRB 1 (1977). The Board has long recognized the "merger doctrine" under which an employer and union may, by contract, bargaining history, and course of conduct, merge separately certified or recognized units into one overall unit. White-Westinghouse Corp., 229 NLRB 667, 672 (1977), citing General Electric Co., 180 NLRB 1094, 1095 (1970). A merger of separate units, in effect, destroys the separate identity of the individual units. Id. Where the record establishes that separately certified or recognized units have been merged, a Board election can be conducted only in the larger, merged unit. Id.

[14] See lines 4-6 and 17-20 on page 90 in the transcript.

To determine whether a merger has occurred, the Board examines factors such as: (1) the language in the recognition clause of the parties' collective-bargaining agreement;[15] (2) the manner in which the collective-bargaining agreement has been administered, i.e. whether any terms and conditions of employment of the collective-bargaining agreement are applicable to all members of the larger, merged unit;[16] (3) the parties' bargaining history, including the length of time that the merged unit has bargained as one overall unit compared with how long the units have bargained separately;[17] and (4) employee involvement in the ratification vote of the collective-bargaining agreement.[18]

B. Analysis

The Union and the Employer claim that they intended to merge the Global Services unit into the Core Agreement unit. But the parties' intent to merge is not manifested in the contractual language of their collective-bargaining agreements, the parties' letter of agreement, the administration of the contract, or the parties' bargaining pattern with respect to these two units.

1. *Contractual language*

The Board first examines the language of the parties' contractual recognition clause to determine whether unmistakable evidence of the parties' mutual agreement to merge exists. If the language of the recognition clause clearly describes a merged unit, the Board generally finds that a merger has taken place. The Green-Wood Cemetery, 280

[15] See S.B. Rest of Framingham, Inc., 221 NLRB 506, 507 (1975); Heck's, Inc., 234 NLRB 756, 757 (1978).
[16] See Id.; Albertson's, Inc., 307 NLRB 338, 338 (1992); Wisconsin Bell, 283 NLRB 1165, 1165 (1987); Gibbs & Cox, 280 NLRB 953, 953 (1986); General Electric Co., 180 NLRB at 1095; Hall-Scott, Inc., 120 NLRB 1364, 1366 (1958).
[17] See General Electric, 180 NLRB at 1094-1095; Raley's, 348 NLRB 382, 554 (2006).
[18] See Id. at 266; Westinghouse Electric Corp., 227 NLRB 1932, 1934 (1977).

NLRB 1359, 1359-1360 (1986); Armstrong Rubber Co., 208 NLRB 513, 514 (1974); W.T. Grant Co., 179 NLRB 670 (1969). In cases where the recognition clause specifically refers to separate units or is ambiguous, the Board generally has not found that a merger has taken place absent other factors establishing an effective merger. Arrow Uniform Rental, 300 NLRB 246, 248-249 (1990); Sears Roebuck and Co., 253 NLRB 211, 211-212 (1980); Duval Corporation, 234 NLRB 160, 161 (1978); Remington Office Machines, 158 NLRB 994, 996 (1966); Metropolitan Life Insurance Company, 172 NLRB 1257, 1258 (1968).

In the instant case, the parties' agreements (the Core Agreement and the Global Services agreement) do not contain any provisions explicitly stating that the two units have been merged into one. There is no uniform recognition clause. Rather, two recognition clauses exist, one in the Core Agreement and one in the Global Services agreement, and each clause describes a separate unit. Had the recognition clauses been amended to explicitly state that the two units were now recognized as one overall unit, this factor would weigh in favor of finding an effective merger. However, the existence of two recognition clauses, and the different language in such clauses, does not establish the existence of a single overall unit.

In addition, the Final Bargaining Report and the April 3, 2006 letter of agreement state that the parties "agree to place the SBC Global Services, Inc. (California/Nevada) collective bargaining agreement into the 2004 core labor agreement" as Appendix D. This language is ambiguous and also fails to specify that the two units were merged into one. Furthermore, the third paragraph under the terms and conditions of the April 3rd letter of agreement unambiguously states that the Union will not seek to alter any existing

units and will not claim that any units represented by the Union "are a single bargaining unit, or are or should be otherwise altered in their scope or composition." Brokaw proffered a vague and limited explanation as to why this paragraph was included in the letter of agreement. The plain meaning of this language suggests the opposite of a merger; it suggests that the existing units were to remain separate and intact.

2. Administration of the contract & lack of uniform terms and conditions of employment

As previously mentioned, the Board also considers whether the collective-bargaining agreement has been administered in a manner indicative of a merged unit. Day Zimmerman, Inc., 246 NLRB 1181, 1182 (1979). Here, the provisions in the Core Agreement continue to apply to Core Agreement unit employees, but not to the smaller Global Services unit covered by Appendix D. And the provisions in Appendix D apply to the Global Services unit, but not to the Core Agreement unit employees. As stated in the seventh paragraph under the terms and conditions of the April 3rd letter of agreement, "no other agreements between the Company or any AT&T Company or Companies and CWA will apply to the employees covered by Appendix D other than those contained in Appendix D. . ." Accordingly, there are no uniform contractual provisions applicable to *all* employees in the alleged merged unit.

There is no dispute that provisions in the Core Agreement do not apply to Global Services unit employees. Brokaw testified that Appendix D does not coincide with the Core Agreement. Thus, Global Services unit employees continue to have a whole set of separate contractual provisions, including separate grievance/arbitration procedures, time-off benefits, compensation benefits, and other terms and conditions of employment. Employees covered by the Core agreement have received yearly lump sum

payments, COLA's, and meal allowances, while employees covered by Appendix D have not. These differences reflect characteristics of a fragmented unit, in which the smaller Global Services unit continues to be treated as a separate unit. Union representative Brokaw acknowledged that Global Services employees have yet to be integrated into the Core Agreement. These facts do not support a finding that the separate units, as they existed before the agreements were attached together, have lost their respective identities. See Big R. Distributors, Inc., 280 NLRB 1306, 1309 (1986). The manner in which the contracts have been applied demonstrates that the two groups of employees continue to be treated as separate units. As such, this factor fails to establish that an effective merger has been achieved.

3. Bargaining history

The parties' bargaining history, likewise, does not support a conclusion that a merger occurred. There is no history of joint bargaining among the Employer, Global Services, and the Union with respect to the alleged overall, merged unit. The successor Global Services agreement was negotiated as a separate agreement for a separate unit, and subsequently attached to the Core Agreement as Appendix D. The Global Services unit has, therefore, always bargained as a separate unit. Although the Union asserts that the parties have a history of merging separate units into the Core Agreement by including them as an appendix and gradually bargaining away any unique terms and conditions, the process of integrating the two units in this case has not yet occurred. Brokaw described this situation when she stated that their plan was to set a common expiration date for the contracts and eventually the smaller unit would become "more part of the Core Agreement." The parties have not reached a merger by attaching the collective-

bargaining agreements together and setting a common expiration date. Furthermore, the record suggests that the Employer and Global Services remain separate entities. For instance, the Memorandum of Agreement concerning the movement of employees was executed by the Employer and Global Services as separate entities. The parties' history and manner of negotiation up to this point supports a finding that two separate units continue to exist.

4. Employee involvement in the ratification vote

The record shows that Global Services unit employees ratified the 2006 collective-bargaining agreement as an attachment to the Core Agreement. It is unclear whether employees were explicitly informed that the parties intended to merge the two units into one overall unit. Even if employees received adequate notice that the attachment of the Global Services agreement with the Core Agreement would entail a merger of the units, the parties, by continuing to treat them as separate units, prevented unification among the units. In addition, this is not a case in which the collective-bargaining agreement was ratified by all members in the alleged merged unit. See Hall-Scott, Inc. 120 NLRB at 1365 (agreement ratified by all members); Raley's, 348 NLRB at 555 (same). Here, only Global Services unit employees ratified the contract. This fact further demonstrates that the units continued to be treated as separate units. Accordingly, this factor does not weigh in favor of a finding that an effective merger has taken place.

V. Conclusion

The record supports a finding that despite the alleged intent of the Union and Employer to merge the units, the parties, by their own conduct, have failed to achieve an effective merger. The existence of two separate recognition clauses, each describing a

distinct unit; the lack of uniform contractual provisions applicable to all employees in the alleged merged unit; the parties' past pattern of bargaining separately with respect to both units, and the ratification of the contract by only one group of employees demonstrate that the two units have not, in fact, been merged.

Based on the foregoing and the record as a whole, I conclude that a unit of all full-time and regular part-time associate field service representatives, field service representatives, and senior field service representatives employed by SBC Global Services, Inc. in Nevada and California is an appropriate unit for a deauthorization election. [19]

VI. Findings

Upon the entire record in this proceeding, the undersigned finds:

1. The Hearing Officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.

2. The parties stipulated that the Employer, a Delaware corporation, with a principal place of business located at 225 West Randolph Street, Chicago, Illinois, is a public utility, engaged in the business of providing telecommunications services throughout the United States. During the 12-month period ending June 30, 2008, a representative period, the Employer derived gross revenues in excess of $100,000 from its operations, and during that same period of time, purchased and received at its

[19] As to the Union's contention that this petition cannot be processed because of a two-member Board, that argument is without merit. Effective midnight December 28, 2007, Members Liebman, Schaumber, Kirsanow, and Walsh delegated to Members Liebman, Schaumber, and Kirsanow, as a three-member group, all of the Board's powers in anticipation of the expiration of the terms of Members Kirsanow and Walsh on December 31, 2007. Pursuant to this delegation, Chairman Schaumber and Member Liebman constitute a quorum of the three-member group. As a quorum, they have the authority to issue decisions and orders in unfair labor practice and representation cases. See Section 3(b) of the Act; Lily Transportation Corp., 352 NLRB No. 121, fn. 1 (July 31, 2008). The Union's claim that the processing of this petition is unconstitutional also lacks merit. Section 9(e)(1) of Act explicitly authorizes deauthorization elections when the requisite rules and procedures are followed.

California facilities goods valued in excess of $50,000 directly from suppliers located outside the state of California. Based on the stipulation of the parties and the record as a whole, I find that the Employer is engaged in commerce within the meaning of the Act, and that it will effectuate the purposes of the Act to assert jurisdiction herein.

3. Communications Workers of America, hereinafter referred to as CWA, is a labor organization within the meaning of the Act.

4. I find that the following unit is an appropriate unit for the purposes of collective bargaining:

> All full-time and regular part-time associate field service representatives, field service representatives, and senior field service representatives employed by SBC Global Services, Inc. in California and Nevada; excluding all other employees, professional employees, guards, and supervisors as defined in the Act.[20]

DIRECTION OF ELECTION[21]

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to rescind the Union's authority to require under its collective-bargaining agreement with the Employer that employees in the bargaining unit make certain lawful payments to the Union in order to retain their jobs. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to this decision.

[20] As previously noted, SBC Global Services, Inc. is a subsidiary of the Employer and employs the employees in the petitioned-for unit.

[21] Petitioner has 10 days from the issuance of this decision to either make a sufficient showing of interest in the unit herein found appropriate, or to withdraw his petition. If he does neither by August 22, 2008, I intend to dismiss the petition due to lack of sufficient showing of interest in the appropriate unit.

A. Voting Eligibility

Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off, are eligible to vote. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such a strike, who have retained their status as strikers but who have been permanently replaced, as well as their replacements, are eligible to vote. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced are ineligible to vote.

B. Employer to Submit List of Eligible Voters

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Co., 394 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date of this Decision, the Employer must submit to the Regional Office two copies of an alphabetized election

eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359 (1994). This list must be in sufficiently large type to be clearly eligible. I shall use this list initially for the administrative investigation into the showing of interest. I shall, in turn, make the list available to all parties to the election, only after I have determined that an adequate showing of interest has been submitted.

In order to be timely filed, such list must be received in Region 21, 888 South Figueroa Street, 9th Floor, Los Angeles, California 90017-5449, **on or before** August 19, 2008. No extension of time to file this list may be granted, nor shall the filing of a request for review operate to stay the filing of such list except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (213) 894-2778. Since the list is to be made available to all parties to the election, please furnish a total of 3 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

C. Notice of Posting Obligations

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three (3) working days prior to the day of the election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least five (5) full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services,

317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

D. Notice of Electronic Filing

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, D.C. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" in the National Labor Relations website: www.nlrb.gov.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570. The Board in Washington must receive this request by 5:00 p.m., EDT, on August 26, 2008. This request may **not** be filed by facsimile.

DATED at Los Angeles, California this 12th day of August, 2008.

/S/[James F. Small]_____
James F. Small, Regional Director
National Labor Relations Board
Region 21
888 South Figueroa Street, 9th Floor
Los Angeles, CA 90017